

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Michael J. Holian

1522 Dillwin Road
Rock Hill, South Carolina 29732.

File Number 2004-121971

**Default Order Revoking
All Licensing Privileges**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2004), by the State of South Carolina Department of Insurance upon Michael J. Holian by both certified mail, return receipt requested, and by regular mail on March 1, 2005.

That letter informed Michael J. Holian of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. The letter further warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance producer within the State of South Carolina. **Despite that warning, Michael J. Holian has failed to respond to the Department's letter.** On May 5, 2005, therefore, counsel for the Department filed an Affidavit of Default, and submitted the entire matter directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance producer within the State of South Carolina for Americare Insurance Company, Michael J. Holian cancelled an existing Media Gap policy of Laverne A. Johnson without her knowledge or consent.

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend a producer's license after ten day's notice...when it appears that a producer...has violated this title or any regulation promulgated by the department, or has, "deceived or dealt unjustly with the citizens of this State." Section 38-43-107 provides that, "the producer shall notify the department within thirty days of any change in legal name or business mailing and residence street address.

In accordance with my findings of fact, and considering Michael J. Holian's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that Michael J. Holian violated S.C. Code Ann. § 38-43-130 (A) that his resident insurance producer's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under

the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110(3) (Supp. 2000).

It is, therefore, ordered that the license of Michael J. Holian to do business as a resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Michael J. Holian is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance producer within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in cursive script, reading "Eleanor Kitzman".

Eleanor Kitzman
Director

May 6, 2005 at
Columbia, South Carolina

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SCDOI File Number 2004-121971

Affidavit of Default

Personally appeared before me John B. O'Neal, III, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was the attorney representing the State of South Carolina Department of Insurance (the Department) in this administrative action. He further stated the following:

The Department served notice on Michael J. Holian at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a resident insurance producer within the State of South Carolina in thirty days. The Department served that notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2004), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That letter further notified Michael J. Holian of his opportunity, within thirty days, to request in writing a public hearing.

The Department mailed the notice concerning the right to a hearing by certified mail, return receipt requested, and by regular mail, on or about March 1, 2005. On March 15, 2005 the United States Postal Service returned the certified letter to the Department marked, "unclaimed". Michael J. Holian has made no request for a public hearing or any other response to the notice. The time in which to do so has expired. He is now in default.


John B. O'Neal, III
Associate General Counsel

South Carolina Department of Insurance
Post Office Box 100105
Columbia, South Carolina 29202
(803) 737-6132

Sworn to and subscribed before me
this 16 day of May, 2005



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires: May 10, 2009